

00862.023294



DAE
Ifw
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:)	
	:	Examiner: Hoang X. Ngo
Norihito NAITO, et al.)	
	:	
U.S. Patent No. 6,944,410 B2)	
	:	Group Art Unit: 2852
Application No.: 10/701,451)	
	:	Confirmation No.: 7604
Filed: November 6, 2003)	
	:	
For: IMAGE FORMING APPARATUS)	
AND METHOD OF SENSING	:	
AMOUNT OF REMAINING)	
DEVELOPER IN IMAGE FORMING	:	
APPARATUS)	
	:	
Issued: September 13, 2005)	November 10, 2005

Mail Stop Patent Ext.

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)

Sir:

11/15/2005 MBEYENE2 00000004 10701451

01 FC:1455

200.00 0P

RELIEF REQUESTED

Patentees hereby request reconsideration and recalculation of the Patent Term Adjustment (hereinafter "PTA") for the above-identified patent. This Request is timely filed inasmuch as it is being filed within two (2) months of the date that the present patent issued. See 37 C.F.R. § 1.705(d).

For at least the following reasons, the present patent is believed to be entitled to a PTA of **62** days:

FACTS

1. As shown in the caption of this paper, the present patent issued from U.S. Patent Application No. 10/701,451 (the '451 Application) on September 13, 2005.

2. Three (3) Information Disclosure Statements were timely and properly filed in the '451 Application on November 6, 2003, January 16, and April 28, 2004.

3. On March 1, 2005, initialed copies of the PTO-1449 citation forms filed with the Information Disclosure Statements on January 16 and April 28, 2004, were mailed along with a Notice of Allowance and Issue Fee(s) Due form. These initialed copies evidence the Examiner's consideration of the information cited in the Information Disclosure Statements filed on January 16 and April 28, 2004.

4. No indication of consideration of the Information Disclosure Statement filed on November 6, 2003 was received in the '451 application.

5. On March 21, 2005, Patentees' undersigned attorney filed a Request for Paper to request an indication of consideration of the Information Disclosure Statement filed on November 6, 2003. (A copy of the November 6, 2003, Information Disclosure Statement and a date-stamped postcard receipt were enclosed with the Request for Paper.)

Specifically, an initialed copy of PTO-1449 citation form filed with an Information Disclosure Statement on November 6, 2003, was requested. A copy of the Request for Paper with enclosures and a date-stamped, postcard receipt are attached.

6. On May 5, 2005, Patentees' undersigned attorney paid the combined issue and publication fees.

7. The Patent Application Information Retrieval ("PAIR) system database for "Patent Term Adjustment History" of the '451 Application indicates an Application-delay period of 86 days and two (2) PTO-delay periods of 8 days and 54 days for a total of 62 days. A printout of the relevant portion of the PAIR system database also is attached.

8. More specifically, the Patent Term Adjustment History indicates an Applicant-delay period of 86 days next to an entry, which reads:

"03-21-2005 Information Disclosure Statement (IDS) Filed"

and a PTO-delay period of 54 days next to an entry which reads:

"03-01-2005 Mail Notice of Allowance," and

another PTO-delay period of 8 days next to an entry, which reads:

"09-13-2003 Patent Issue Date Used in PTA Calculation".

9. The PAIR System database for "File History" of the '451 Application erroneously characterizes the Request for Paper as an Information Disclosure Statement. A printout of the relevant portion of the PAIR system database also is attached.

10. More specifically, the File History includes an entry, which reads:

"03-21-05 Information Disclosure Statement (IDS) filed."

11. No Information Disclosure Statement was filed on March 21, 2005, in the '451 Application. Rather as above-noted, Patentees' undersigned attorney field a Request for Paper on March 21, 2005, for an indication of consideration for an Information Disclosure Statement filed on November 6, 2003, which should have already been considered and

acknowledged by the Examiner. Accordingly, the alleged Applicant-delay period of 86 days is not proper and should not negatively affect the PTA.

12. It is respectfully submitted that the United States Patent and Trademark Office (the "PTO") incorrectly treated the Request for Paper filed on March 21, 2005, as an Information Disclosure Statement.

13. It is also respectfully submitted that the PTO improperly assessed an Applicant-delay period of 86 days offsetting the total PTO-delay period of 62 days due to the filing of the Request for Paper.

14. On September 13, 2005, the present patent issued with a Notice on the cover thereof erroneously indicating a PTA of 0 days.

15. The present patent is not subject to any terminal disclaimer.

16. In view of the foregoing, Patentees respectfully submit that there are no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

ARGUMENT

Patent term adjustment is reduced by the period of time during which the Applicants failed to engage in reasonable efforts to conclude prosecution. See 35 U.S.C. § 154(b)(2)(C)(i). When papers are filed after the mailing of a Notice of Allowance, such failure is present only when the paper causes "substantial interference and delay in the patent issue process". See O.G. Notice "Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed" dated June 26, 2001. According to the Notice, papers said to cause such

interference and delay include (1) a request for refund, (2) a status letter, (3) amendments under 37 C.F.R. § 1.312, (4) late priority claims, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oaths or declarations, whereas papers said not to cause interference and delay include (1) Issue Fee Transmittal, (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interest. Id.

The Request for Paper as above-described is not specifically listed in the O.G. Notice as belonging to any of the above-mentioned examples, as being a delay caused by Applicant during prosecution.

Accordingly, Patentees respectfully submit that the Request for Paper filed in this case is not a paper causing interference and delay, and therefore should not affect the PTA.

In view of the foregoing statement, Patentees respectfully submit that the 86 days charged as a Applicant-delay period should be reconsidered and withdrawn and that a PTA of 62 is proper.

FEE

Submitted herewith is a check for \$200.00 for the fee set forth in 37 C.F.R. § 1.18(e). Any deficiency in this fee may be charged or any overpayment credited to Deposit Account No. 06-1205.

REQUEST FOR INTERVIEW

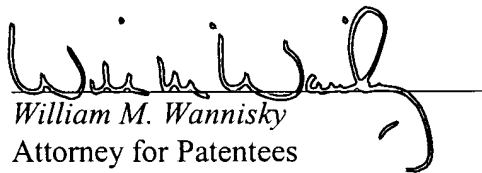
If any questions remain, Patentees respectfully request that a representative of the U.S. Patent and Trademark Office contact Patentees' undersigned attorney at (202) 530-1010 to schedule an interview.

CONCLUSION

In view of the foregoing, favorable consideration hereof and reconsideration and recalculation of the PTA to be **62** days are earnestly solicited.

Patentees' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our New York office at the below-listed address.

Respectfully submitted,


William M. Wannisky
Attorney for Patentees
Registration No. 28,373

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date 03/21/05
Mo. Day Yr.

Atty. Docket 00862.02324

Application No. 10/70,457

Sir:

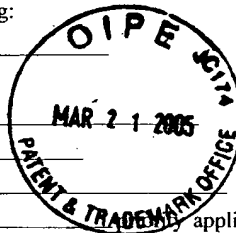
Kindly acknowledge receipt of the accompanying:

- ☐ Response to Official Action. _____
- ☐ Check for \$ _____ (claims fee)
- ☐ Petition under 37 CFR 1.136 and Check for \$ _____
- ☐ Notice of Appeal and Check for \$ _____
- ☐ Information Disclosure Statement, PTO-1449 and _____ documents
- ☐ Claim for priority and certified copies of _____ applications
- ☐ Issue fee transmittal and Check for \$ _____
- ☒ Other (specify) Request for Paper

by placing your receiving date stamp hereon and returning to deliverer.

Atty. WMW/tas

Due Date 06/01/05
Mo. Day Yr.



FOHS-D-00

00862.023294



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: Hoang X. Ngo
Norihito NAITO, et al.)	
	:	Group Art Unit: 2852
Application No.: 10/701,451)	
	:	Allowed: March 1, 2005
Filed: November 6, 2003)	
	:	Confirmation No.: 7604
For: IMAGE FORMING APPARATUS)	
AND METHOD OF SENSING	:	March 21, 2005
AMOUNT OF REMAINING)	
DEVELOPER IN IMAGE FORMING	:	
APPARATUS)	

Mail Stop Issue Fee

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 21231-1450

REQUEST FOR PAPER

Sir:

Applicants are in receipt of a Notice of Allowance and Issue Fee Due (the "Notice of Allowance"), dated March 1, 2005, in the above-identified application. The Issue Fee is due on June 1, 2005, and has not yet been paid.

On November 6, 2003, Applicants filed an Information Disclosure Statement in the application. The Notice of Allowability enclosed with the Notice of Allowance indicates that copies of Forms PTO-1449, which were submitted with the Information Disclosure Statements filed January 16, and April 28, 2004, are attached to the Notice of Allowance.

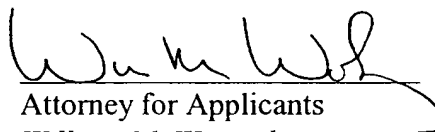
However, a Form PTO-1449 attached to the Information Disclosure Statement filed on November 6, 2003, is not mentioned in or enclosed with the Notice of Allowability. A review of the U.S. Patent and Trademark Office Patent Application Information Retrieval database indicates that the Form PTO-1449 was not mailed with the Notice of Allowance. It is believed that these omissions are due to an inadvertent oversight in the Patent and Trademark Office.

The Examiner is respectfully requested to provide a copy of the PTO Form-1449 submitted with the November 6th Information Disclosure Statement, annotated with the Examiner's initials and date acknowledging receipt and consideration of the art cited therein.

Favorable consideration hereof is earnestly solicited.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to the New York office at the below-listed address.

Respectfully submitted,


Attorney for Applicants
William M. Wannisky
Registration No. 28,373

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
WMW/tas



Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date 11 / 6 / 2003
Mo. Day Yr.

Atty. Docket 00862-02324

Sir:

Kindly acknowledge receipt of the accompanying:

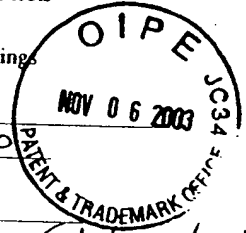
- ☒ Specifications, claims and abstract 70 pages, with Transmittal Form
☒ Patent Application Bibliographic Data Sheet 3 sheets
☒ Executed Oath or Declaration and Power of Attorney
☒ 19 Sheets of 1 formal 1 informal drawings
☒ Check for \$ 1028.00 (filing fee)
☐ Request for Continued Examination and Check for \$ _____
☒ Assignment, PTO-1595 and Check for \$ 40.00
☐ Transmittal Under 37 CFR 1.53(d) (CPA)
☐ Petition under 37 CFR 1.136 and check for \$ _____

☒ Other (specify) Information Disclosure Statement + 1st
by placing your receiving date stamp hereon and mailing or returning to deliverer.

This is a ☐ Continuation ☐ Divisional ☐ Continuation-In-Part
Atty. WMW/cku Due Date 11 / 8 / 2003
Mo. Day Yr.

37 CFR 1.8 ☐
37 CFR 1.10 ☐
By Hand ☒

FCIS-A-00



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00862.023294

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: Unassigned
Norihito NAITO, et al.)	
	:	Group Art Unit: Unassigned
Application No.: Unassigned)	
	:	
Filed: Concurrently herewith)	
	:	
For: IMAGE FORMING APPARATUS)	November 6, 2003
AND METHOD OF SENSING	:	
AMOUNT OF REMAINING)	
DEVELOPER IN IMAGE FORMING	:	
APPARATUS)	

Mail Stop Patent Application

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56 and in accordance with the practice under 37 C.F.R. §§ 1.97 and 1.98, the Examiner's attention is directed to the patent document listed on the enclosed Form PTO-1449. A copy of the listed document is also enclosed.

STATEMENT/PETITION/FEE

This Information Disclosure Statement is being filed within three (3) months of the filing date of the application. Accordingly, Applicants submit that no Statement, Petition, or Fee is necessitated by the filing of this paper. Nevertheless, the Commissioner is authorized to charge any fee necessitated by the filing of this paper to Deposit Account No. 06-1205. A duplicate copy of this paper is enclosed for that purpose.



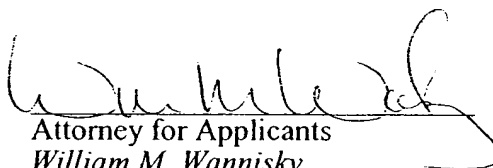
CONCLUSION

It is respectfully requested that the above information be considered by the Examiner and that a copy of the enclosed Form PTO-1449 be returned indicating that such information has been considered.

Favorable consideration hereof is earnestly solicited.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our New York office at the address given below.

Respectfully submitted,


Attorney for Applicants
William M. Wannisky
Registration No. 28,373

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

WMW:tas

FORM PTO 1449 (modified)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICELIST OF REFERENCES CITED BY APPLICANT(S)
(Use several sheets if necessary)

Date Submitted: November 6, 2003

ATTY DOCKET NO.

00862.023294

APPLICATION NO.

Unassigned

APPLICANT

Norihito NAITO, et al.

FILING DATE

Concurrently herewith

GROUP

Unassigned

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT
61-256355	11/13/86	Japan			Abstract

OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

DATE CONSIDERED

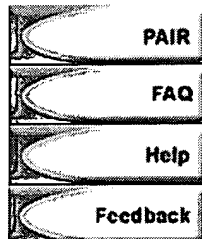
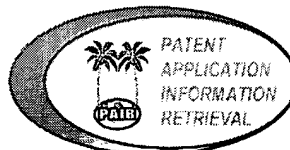
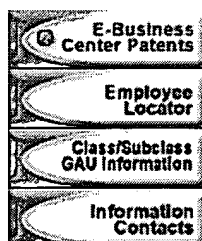
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Sheet 1 of 1

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Search results as of: 11-10-2005::14:1:21 E.T.

Search results for application number: 10/701,451			
Application Number:	10/701,451	Customer Number:	5514
Filing or 371(c) Date:	11-06-2003	Status:	Patented Case
Application Type:	Utility	Status Date:	08-24-2005
Examiner Name:	NGO, HOANG X	Location:	ELECTRONIC
Group Art Unit:	2852	Location Date:	-
Confirmation Number:	7604	Earliest Publication No:	US 2004-0105690 A1
Attorney Docket Number:	00862.023294	Earliest Publication Date:	06-03-2004
Class/ Sub-Class:	399/027	Patent Number:	6,944,410
First Named Inventor:	Norihito Naito, Shizuoka, (JP)	Issue Date of Patent:	09-13-2005
Title Of Invention:	IMAGE FORMING APPARATUS AND METHOD OF SENSING AMOUNT OF REMAINING DEVELOPER IN IMAGE FORMING APPARATUS		

Select Search Option

Assignments Display References Foreign Priority Image File Wrapper Maintenance Fees - Retrieve fees to pay Maintenance Fees - View payment windows	<input type="button" value="Search"/>
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Maintenance Fees Available: Mon-Fri 5:30 AM to Midnight, Sat-Sun-Hol. 7:30 AM to 8:00 PM E.T.

File History	
Date	Contents Description
09-13-2005	Recordation of Patent Grant Mailed
08-24-2005	Issue Notification Mailed
09-13-2005	Patent Issue Date Used in PTA Calculation
07-18-2005	Receipt into Pubs
07-15-2005	Dispatch to FDC
07-15-2005	Application Is Considered Ready for Issue
05-05-2005	Issue Fee Payment Verified
06-16-2005	Receipt into Pubs
06-14-2005	Mail Miscellaneous Communication to Applicant
06-10-2005	Miscellaneous Communication to Applicant - No Action Count

03-21-2005	Information Disclosure Statement (IDS) Filed
06-07-2005	Receipt into Pubs
06-07-2005	Receipt into Pubs
05-05-2005	Issue Fee Payment Received
04-06-2005	Workflow - File Sent to Contractor
03-01-2005	Mail Notice of Allowance
02-22-2005	Notice of Allowance Data Verification Completed
04-28-2004	Reference capture on IDS
04-28-2004	Information Disclosure Statement (IDS) Filed
03-22-2004	Request for Foreign Priority (Priority Papers May Be Included)
02-27-2004	IFW TSS Processing by Tech Center Complete
01-16-2004	Reference capture on IDS
01-16-2004	Information Disclosure Statement (IDS) Filed
11-06-2003	Information Disclosure Statement (IDS) Filed
02-27-2004	Case Docketed to Examiner in GAU
02-23-2004	Application Return from OIPE
02-24-2004	Application Is Now Complete
02-23-2004	Application Return TO OIPE
02-23-2004	Application Return from OIPE
02-23-2004	Application Is Now Complete
02-04-2004	Pre-Exam Office Action Withdrawn
02-04-2004	Application Return TO OIPE
02-04-2004	Application Dispatched from OIPE
02-04-2004	Application Is Now Complete
01-28-2004	Cleared by OIPE CSR
12-20-2003	IFW Scan & PACR Auto Security Review
11-06-2003	Initial Exam Team nn

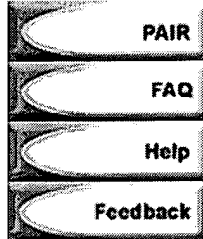
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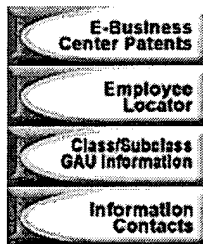
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PATENT APPLICATION INFORMATION RETRIEVAL



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Patent Term Adjustment (PTA) for application number: 10/701,451			
			Days
Filing or 371(c) Date:	11-06-2003	USPTO Delay (PTO):	62
Issue Date of Patent:	09-13-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	86
Post-Issue Petitions (days):	+0	Total PTA:	0
USPTO Adjustment (days):	+0	Explanation of Calculations	































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Assignments	
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File History	
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Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
09-13-2005	Patent Issue Date Used in PTA Calculation	8	
07-18-2005	Receipt into Pubs	↑	
07-15-2005	Dispatch to FDC	↑	
07-15-2005	Application Is Considered Ready for Issue	↑	
05-05-2005	Issue Fee Payment Verified	↑	
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06-07-2005	Receipt into Pubs		↑
06-07-2005	Receipt into Pubs		↑
05-05-2005	Issue Fee Payment Received		↑
04-06-2005	Workflow - File Sent to Contractor		↑
03-01-2005	Mail Notice of Allowance	54	↑
02-22-2005	Notice of Allowance Data Verification Completed	↑	↑
04-28-2004	Reference capture on IDS	↑	↑
04-28-2004	Information Disclosure Statement (IDS) Filed	↑	↑
03-22-2004	Request for Foreign Priority (Priority Papers May Be Included)	↑	↑
02-27-2004	IFW TSS Processing by Tech Center Complete	↑	↑
01-16-2004	Reference capture on IDS	↑	↑

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02-23-2004	Application Return from OIPE		
02-24-2004	Application Is Now Complete		
02-23-2004	Application Return TO OIPE		
02-23-2004	Application Return from OIPE		
02-23-2004	Application Is Now Complete		
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12-20-2003	IFW Scan & PACR Auto Security Review		
11-06-2003	Initial Exam Team nn		

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